IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1070 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DHARMISTHABEN WD/O SHAKRALAL @ SHAKARCHAND PATEL

Versus

JIVANLAL AMBARAM PATEL

Appearance:

MR MB GANDHI for Petitioners

RULE SERVED BY DS for Respondent No. 1, 4, 5, 6, 7

DS AFF.NOT FILED (R) for Respondent No. 3

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 23/02/2001

ORAL JUDGEMENT

1. This revision application arises out of an order passed in Execution Application No.6 of 1994 on 16.09.2000 by learned Civil Judge (S.D.), Mehsana. That application was moved in the execution by the plaintiff

for withdrawal of an amount of Rs.50,000/- payable to plaintiff No.4-Jagruti Shankarlal Patel, which was ordered to be deposited in the name of the Nazir as the plaintiff was a minor.

2. The case of plaintiff No.4 is that the fixed deposit has matured and now the amount is receivable by plaintiff No.4. The defendants came with a case that a compromise is entered into between the parties and original plaintiff No.4-Dharmishtaben has agreed to transfer a Wada land situate at Chotana to the defendants and, at that time, Rs.50,000/- is payable. The said Wada land is not transferred to the name of the defendants and, therefore, they strongly objected to the withdrawal and payment of the amount to plaintiff No.4-Jagrutiben. The Court, thereafter, passed the impugned order observing that the defendants have objection to the release of the amount and the application is, therefore, disposed of.

3. The compromise decree is placed on record and on going through the compromise decree, there does not appear any such pre-condition. Besides this, Rule has been served on the opponents and nobody appears on their behalf. In this view of the matter, this revision application deserves to be allowed and the same is allowed. The order impugned in this revision application is hereby set aside. The learned Civil Judge (S.D.), at Mehsana, is directed to make payment of the fixed deposit amount along with interest accrued thereon, if any, to plaintiff No.4. Rule is made absolute accordingly, with no orders as to costs.

[A.L. DAVE, J.]
gt